

**United States District Court**  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 | IN RE CHIRON CORPORATION  
SECURITIES LITIGATION

No C 04-4293 VRW

## **ORDER**

At the case management conference in the above-captioned case on February 14, 2008, the court suggested the possibility of retaining Professor Michael Perino to evaluate the proposed settlement and help devise a class notice. On March 17, 2008, defendant Novartis Vaccines and Diagnostics, Inc informed the court that it consented to referring the matter to Professor Perino (Doc #146), but the lead plaintiff, International Union of Operating Engineers Local No 825 Pension Fund, objected (Doc #147).

25           Although Professor Perino appears to be well qualified,  
26 the court is disinclined to appoint an expert over the objections  
27 of one of the parties.

As an alternative to obtaining an objective evaluation of

1 the proposed settlement, the court suggests sending to the proposed  
2 class a short notice designed to elicit responses from class  
3 members. The notice should summarize briefly the proposed  
4 settlement, explain the court's concerns about the proposed  
5 settlement and encourage potential class members to respond with  
6 their views.

7 To facilitate class members' participation in the  
8 evaluation of the settlement, the court proposes that copies of the  
9 parties' proposed "Notice of Pendency of Class Action and Proposed  
10 Settlement Therof, Motion for Attorneys' Fees and Settlement  
11 Fairness Hearing" (Doc #100-3) and the court's November 30, 2007  
12 order denying preliminary approval of the settlement (Doc #130) be  
13 made available on a website maintained by the parties. The content  
14 of the website should avoid any suggestion that the court has  
15 tentatively approved the settlement or its terms. Class members  
16 should be invited to respond with their opinion whether the  
17 settlement should be approved by sending an email to an address  
18 that will deliver the responses to the parties and the court  
19 simultaneously.

20 From various communications with the parties since its  
21 November 30, 2007 order denying preliminary approval of the  
22 proposed settlement, the court understands that the parties may  
23 have agreed to modify the terms of the settlement. If the parties  
24 have agreed to modified terms of settlement, they are directed to  
25 submit the present terms of settlement to the court not later than  
26 April 18, 2008.

27 In the event the parties have not agreed to modified  
28 terms, they shall by April 18, 2008, so inform the court. The

1 court will then draft a short notice summarizing the proposed  
2 settlement and inviting comment from class members.

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4 IT IS SO ORDERED.  
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7 VAUGHN R WALKER  
8 United States District Chief Judge  
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